UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1994/69
8 February 1994

Original: ENGLISH

HUMAN RIGHTS COMMISSION
Fiftieth session
Agenda item 16

EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO UNITED NATIONS HUMAN RIGHTS INSTRUMENTS

Note by the Secretary-General

As requested in General Assembly resolution 47/111 and Commission on Human Rights resolution 1993/16, the author of the study on possible long-term approaches to enhancing the effective operation of existing and prospective bodies established under United Nations instruments on human rights (A/44/668, annex), Mr. Philip Alston, prepared an interim report on his study, which was presented to the World Conference on Human Rights, as well as to the General Assembly at its forty-eighth session, in document A/CONF.157/PC/62/Add.11/Rev.1. Since it will not be possible for Professor Alston to complete the final version of the study prior to the conclusion of the Commission's present session, the interim report is also being made available to the Commission under the above-mentioned document symbol.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1994/70
28 January 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fiftieth session
Item 17 of the provisional agenda

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-FIFTH SESSION

Report of Mr. Awn Shawkat Al-Khasawneh, Chairman of the Sub-Commission at its forty-fifth session, prepared in accordance with paragraph 12 of Commission on Human Rights resolution 1993/28 and Economic and Social Council decision 1993/261

CONTENTS

		Paragraphs	Page
Introduction		1 - 6	2
I.	TERMS OF REFERENCE AND THE ROLE OF THE SUB-COMMISSION	7 - 13	3
II.	COORDINATION WITH THE COMMISSION ON HUMAN RIGHTS AND OTHER HUMAN RIGHTS BODIES	14 - 15	4
III.	INDEPENDENCE OF EXPERTS OF THE SUB-COMMISSION	16 - 17	5
IV.	RATIONALIZATION OF THE AGENDA OF THE SUB-COMMISSION	18	5
V.	METHODS OF WORK OF THE SUB-COMMISSION	19 - 22	5
VI.	CONSIDERATION OF NEW DEVELOPMENTS IN THE FIELD OF HUMAN RIGHTS	23 - 24	6
VII.	REPORT OF THE CHAIRMAN OF THE FORTY-NINTH SESSION OF THE COMMISSION ON HUMAN RIGHTS	25 - 30	6
VIII.	OTHER MATTERS	31 - 33	8

Introduction

1. In its resolution 1993/28 of 5 March 1993, entitled "Work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities", the Commission on Human Rights, having expressed its appreciation for the positive contribution made by the Sub-Commission to the work of the Commission in the promotion and protection of human rights and having noted with appreciation the intensified dialogue and the spirit of cooperation between the two bodies, inter alia, took note with appreciation of the steps taken so far by the Sub-Commission to rationalize and streamline its work and welcomed Sub-Commission resolution 1992/8 and the guidelines annexed thereto. The Commission invited the Sub-Commission to continue its consideration of ways in which its work should be improved with a view to making recommendations on the following points:

(a) Initiatives for a better coordination with the Commission on Human Rights and the other competent organs of the United Nations acting in the field of human rights;

(b) Further strengthening the independence of its experts;

(c) Proposals concerning the rationalization of the agenda, bearing in mind, inter alia, the relationship between the agenda of the Sub-Commission and that of the Commission on Human Rights;

(d) Initiatives which would facilitate the widest possible dissemination of the findings of the Sub-Commission, such as the preparation of a short summary of each completed study, the purpose being that the summaries of all studies completed during a session should be published separately in various languages, for example in the Fact Sheet series of the Centre for Human Rights, thus contributing to better publicity for the studies;

(e) Developing a programme of familiarization with the work of the Sub-Commission for new members and alternates, in particular by providing them in good time with a wide variety of documents of the Sub-Commission and other information material.

2. The Commission reaffirmed that one of the tasks of the Sub-Commission is a thorough examination of information concerning alleged human rights violations, as well as the presentation of the results of the examination to the Commission. The Sub-Commission was also invited to continue to give due regard to new developments in the field of human rights.

3. Lastly, in paragraph 12 of resolution 1993/28, the Commission invited the Chairman of the Sub-Commission at its forty-fifth session to report to the Commission at its fiftieth session on the progress made concerning the issues referred to in that resolution and on significant aspects of the work of the Sub-Commission.

4. In its decision 1993/261, the Economic and Social Council endorsed that request of the Commission on Human Rights.

5. The Chairman of the Sub-Commission submits the present concise report to the Commission on Human Rights in pursuance of the above-mentioned decisions of the Commission and the Council. More details regarding the various aspects of the work of the forty-fifth session of the Sub-Commission will be provided, if necessary, by the Chairman of the Sub-Commission in his oral statement during the fiftieth session of the Commission.

6. The issues referred to in Commission resolution 1993/28 can be grouped under the following headings:

(a) Terms of reference and the role of the Sub-Commission;

(b) Coordination with the Commission and other competent human rights organs;

(c) Independence of experts of the Sub-Commission;

(d) Rationalization of the agenda of the Sub-Commission;

(e) Methods of work of the Sub-Commission;

(f) Consideration of new developments in the field of human rights;

(g) Report of the Chairman of the forty-ninth session of the Commission on Human Rights to the Sub-Commission;

(h) Other matters.

I. TERMS OF REFERENCE AND THE ROLE OF THE SUB-COMMISSION

7. In dealing with its agenda items, the Sub-Commission at its forty-fifth session has borne in mind its complementary role in relation to the work of the Commission and tried to make its own contribution as a body of experts. Pursuant to its mandate, the Sub-Commission has continued its research, studies and standard-setting activities in the area of human rights. The Sub-Commission has also examined situations of violations of human rights in the world and adopted decisions with regard to those situations which it considered as deserving to be brought to the attention of the Commission on Human Rights.

8. The report of the Sub-Commission on its forty-fifth session, which is before the Commission in document E/CN.4/1994/2 - E/CN.4/Sub.2/1993/45, demonstrates the breadth of the subjects brought to its attention by the Commission, Sub-Commission members, observer Governments and intergovernmental and non-governmental organizations.

9. During the discussion of the role and mandate of the Sub-Commission, many experts emphasized the need to render the functions of this body more effective in order that the potentials of the Sub-Commission could be best utilized to enhance its distinctive role and avoid overlapping and duplication with the work of the Commission on Human Rights.

10. When considering the item relating to the adoption of the agenda, several members referred to what they considered to be a widening gap between what the Sub-Commission was doing and what was happening in the outside world. They felt that the Sub-Commission must not confine itself largely to academic studies but try to adapt to the world situation and adopt an agenda which related to reality.

11. Subsequently, two proposals were made with regard to the agenda of the forty-fifth session which were accepted by the Sub-Commission. The Sub-Commission decided to replace agenda item 5 (b), entitled "Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist regime of South Africa", by a new sub-item, entitled "Monitoring of the transition to democracy in South Africa". It was also decided to include in the agenda a new item entitled "Implications of humanitarian activities for the enjoyment of human rights" (decision 1993/102).

12. The Sub-Commission took note of paragraph 6 of Commission resolution 1993/28 by which it reaffirmed that one of the tasks of the Sub-Commission was a thorough examination of information concerning alleged violations of human rights as well as the presentation of the results of the examination to the Commission. Members of the Sub-Commission devoted particular attention to the role which they should play in dealing with situations involving violations of human rights in specific countries. The sessional working group which the Sub-Commission decided to establish during its forty-sixth session (resolution 1993/4) will study in particular the methods to be used and the procedures to be followed under item 6 of the Sub-Commission's agenda, concerning the violations of human rights and fundamental freedoms.

13. Having discussed various views and ideas regarding its role in relation to the consideration of communications concerning violations of human rights, the Sub-Commission decided to study, at its forty-sixth session, the question of the reform of the procedure governed by Economic and Social Council resolution 1503 (XLVIII), including the possible abolition of that procedure (decision 1993/104).

II. COORDINATION WITH THE COMMISSION ON HUMAN RIGHTS AND OTHER HUMAN RIGHTS BODIES

14. The question of the improvement of coordination between the Sub-Commission and other competent organs of the United Nations in the field of human rights was given some consideration together with other issues relating to the methods of work of the Sub-Commission which were discussed under agenda item 3, entitled "Review of the work of the Sub-Commission" (see E/CN.4/Sub.2/1993/SR.2, 4, 5, 12 and 26).

15. An opinion was expressed in the course of that discussion that coordination with the Commission on Human Rights had improved during the previous two or three years and that the Commission had now become better aware of the role which could be played by the Sub-Commission as well as of the nature of the relations which should exist between the two bodies.

Certain tensions which seemed to have accumulated between them had lessened. On the other hand, it was felt that the Sub-Commission had also learned to adapt better to the proposals and recommendations made by the Commission. It was also noted that the Sub-Commission had not yet explored all the possibilities which existed with a view to contributing to the work of the Commission on Human Rights, not only by submitting more elaborated draft resolutions but also be undertaking a substantive analysis of certain issues, thus alleviating the burden of work of the Commission.

III. INDEPENDENCE OF EXPERTS OF THE SUB-COMMISSION

16. Following the request contained in the memorandum of the Chairman of the forty-fourth session of the Sub-Commission concerning the strengthening of the independence of experts which was addressed to the Under-Secretary-General for Human Rights (see E/CN.4/1993/60, paras. 21-29), all members and alternates of the Sub-Commission, who had made formal requests, were provided with the United Nations certificates attesting to their status as "experts on mission", with the privileges and immunities attached thereto. This document proved to be instrumental in preventing incidents jeopardizing the personal security and independence of action of Sub-Commission members in the course of their travel on missions related to their duties and their annual stay in Geneva during the Sub-Commission's sessions.

17. During the forty-fifth session, the validity of the certificates of some experts and alternates of the Sub-Commission was further extended, at their request.

IV. RATIONALIZATION OF THE AGENDA OF THE SUB-COMMISSION

18. The question of the restructuring or rationalization of the agenda of the Sub-Commission was not discussed during the forty-fifth session as a separate issue. However, some views were expressed and proposals made with regard to the agenda in the course of its consideration and adoption (see paras. 10 and 11 above).

V. METHODS OF WORK OF THE SUB-COMMISSION

19. In organizing the work of its forty-fifth session, the Sub-Commission took into account the guidelines concerning its methods of work which it had adopted at it forty-fourth session (resolution 1992/8, annex).

20. Having taken note of the invitation addressed by the Commission on Human Rights, in paragraph 5 of its resolution 1993/28, to the Sub-Commission to continue the consideration of ways in which its work could be improved, the Sub-Commission decided to convene, during its forty-sixth session, a sessional working group to continue the study of its methods of work, with particular emphasis on the methods to be used and procedures to be followed under item 6 of its agenda concerning the violation of human rights and fundamental freedoms, as well as on the means to ensure the follow-up of recommendations and conclusions of studies undertaken under the auspices of the Sub-Commission (resolution 1993/4).

21. With regard to the issue of developing a programme of familiarization with the work of the Sub-Commission for new members and alternates, as proposed in paragraph 5 (e) of Commission resolution 1993/28, experts of the Sub-Commission considered that new members were supposed to be competent in and already familiar with human rights activities of the United Nations and should therefore not need to be provided with any special programme. Similarly, a proposal that the Secretary-General should prepare a basic information kit for newly elected members was considered as belittling the level of expertise of Sub-Commission members.

22. In the drafting of resolutions, decisions or any other proposals, members of the Sub-Commission have endeavoured to find the widest possible agreement on them before tabling them. As reflected in the Sub-Commission's report, 46 resolutions and decisions out of 57 were adopted without a vote, which tends to illustrate the efforts made by the members of the Sub-Commission to work in harmony and in a constructive manner in carrying out its tasks.

VI. CONSIDERATION OF NEW DEVELOPMENTS IN THE FIELD OF HUMAN RIGHTS

23. As in the past, the Sub-Commission at its forty-fifth session considered, under agenda item 4 entitled "Review of further developments in fields with which the Sub-Commission has been concerned", the reports submitted by the International Labour Organisation and the United Nations Educational, Scientific and Cultural Organization, providing information on developments in their recent activities. The Sub-Commission also considered several letters received from Governments, 29 written statements submitted by non-governmental organizations and a number of documents prepared by the Secretary-General which contained new information on various agenda items.

24. The Sub-Commission also focused its consideration on new developments in the actual human rights situation in a number of countries and territories based on information submitted to it by members, observer Governments and non-governmental organizations. In particular, the Sub-Commission considered, and took action upon, such situations in Kosovo (resolution 1993/9), in Chad (resolution 1993/10), in South Africa (resolution 1993/11), in East Timor (resolution 1993/12), in the Islamic Republic of Iran (resolution 1993/14), in the Palestinian and other Arab territories occupied by Israel (resolution 1993/15), in Guatemala (resolution 1993/16), in Bosnia and Herzegovina (resolution 1993/17), in Haiti (resolution 1993/18), in Myanmar (resolution 1993/19), in Iraq (resolution 1993/20) and in Peru (resolution 1993/23).

VII. REPORT OF THE CHAIRMAN OF THE FORTY-NINTH SESSION OF THE COMMISSION ON HUMAN RIGHTS

25. In paragraph 12 of its resolution 1993/28, the Commission on Human Rights invited its Chairman to inform the Sub-Commission on the debate held under Commission agenda item 19 entitled "Report of the Sub-Commission on Prevention

of Discrimination and Protection of Minorities on its forty-fourth session". Pursuant to this invitation, the Chairman of the forty-ninth session of the Commission on Human Rights, H.E. Mr. Mohamed Ennaceur, addressed the Sub-Commission at its 12th meeting, on 11 August 1993.

26. Referring to the recently concluded World Conference on Human Rights, the Chairman of the Commission recalled that one of the recommendations of the World Conference had been for increased coordination between organs dealing with human rights and the need to cooperate in order to strengthen, rationalize and streamline their activities, taking into account the need to avoid unnecessary duplication. It was an invitation to the Sub-Commission and the Commission to reflect, carry out studies and make proposals so that they might reassess their methods and programmes of work in order to rationalize them further and to ensure that the two bodies complemented each other more effectively and more efficiently.

27. Having emphasized the important role that the Sub-Commission had to play in implementing the recommendations of the World Conference, the Chairman stated that the dialogue maintained for several years between the Commission and Sub-Commission could only be strengthened in the light of the evolution of international relations towards a New World Order.

28. Speaking on the subject of the rationalization and improvement of the methods of work of all United Nations human rights bodies, as urged by the World Conference, the Chairman of the Commission said that, if necessary, the Commission on Human Rights could ask the Sub-Commission to submit recommendations on thematic human rights issues requiring additional standard-setting work, in particular with regard to migrant workers, children, indigenous populations, minorities and other vulnerable categories which were also dealt with by the Commission. Proposals might also be made with a view to striking a better balance between the work of the Commission and that of the Sub-Commission which had thus far given priority to issues relating to civil and political rights rather than to those relating to economic, social and cultural rights. It seemed important to him that the Sub-Commission and the Commission should compensate, by appropriate proposals and studies, for the lack of interest at the World Conference in economic, social and cultural rights, which had greatly disappointed the developing countries. The agendas of the Sub-Commission and Commission could be rationalized in order to ensure a more balanced and in-depth consideration of all human rights. The Sub-Commission could submit recommendations along those lines to the Commission, which should also take a critical look at its methods of work with a view to making them better balanced and more comprehensive. Joint efforts by the two bodies could only enhance the effectiveness of their work in protecting and promoting human rights throughout the world.

29. The Chairman of the Commission further noted that, in accordance with its guiding principles, the Sub-Commission should continue to show self-discipline in selecting the number and the subject-matter of the studies it carried out, as well as in the number of resolutions and decisions it adopted every year, with a view to making better use of its means and resources and achieving a better balance between its work and that of the Commission on Human Rights. The Sub-Commission was also congratulated on the quality of its reports and studies and on its standard-setting activities and its recognized contribution

to the existing international legal framework, as well as on the many constructive proposals which it had put forward and which had later been endorsed by the Commission.

30. The Chairman of the Commission on Human Rights concluded by expressing the hope that at its forty-fifth session the Sub-Commission would be able to make further suggestions and proposals for the purpose of strengthening dialogue and coordination between the Commission and the Sub-Commission in their complementary efforts to promote and protect human rights throughout the world.

VIII. OTHER MATTERS

31. The Commission on Human Rights may wish to note that all 26 members of the Sub-Commission were present for most of the session. When a member was unable to attend, he or she was, as a rule, replaced by his or her alternate. The session was also attended by 99 States in their capacity as observers, 5 United Nations bodies, 4 specialized agencies, 9 intergovernmental and other organizations, 3 national liberation movements and 111 non-governmental organizations.

32. The forty-fifth session of the Sub-Commission was taking place in the midst of a financial crisis sweeping through the United Nations as a whole. The Centre for Human Rights was naturally affected and some of its activities had been paralysed. Neither had the Sub-Commission gone unscathed, since several requests for additional meetings had not received a satisfactory response.

33. Every effort was made to organize the work of the forty-fifth session of the Sub-Commission within the time normally allotted, and the additional meetings were utilized only in cases when they proved to be absolutely necessary. As a result, only two afternoon meetings of the Sub-Commission were extended beyond 6.00 p.m. Only 55 minutes of meeting time were lost through late starting and/or early ending during the whole session.